THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24355 OF 2004

DATED 17th OCTOBER, 2006

BETWEEN

Nangedda Ahobala Rao and others

… Petitioners

and

The District Collector, Krishna District, Chilakalapudi, Machilipatnam and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24355 OF 2004

ORDER:

The five petitioners filed the writ petition assailing the proceedings of the second respondent, namely, the Revenue Divisional Officer (RDO) declaring the pattadar pass books (PPBs) and title deeds issued to the petitioners as ineffective and further directing the third respondent, Mandal Revenue Officer (MRO), to collect all the PPBs from the petitioners and note the seizure of the PPBs in the connected record of rights in Form I-B.

The brief fact of the matter shows that the petitioners purchased various extents of lands in survey Nos.815, 819, 824, 825 to 830, 833, 834, 855 and 856 to 861 etc., situated at Vivaka village of Mudinepalli Mandal in Krishna District under registered sale deeds in June/July, 2004, from different persons, who are alleged to be political sufferers. They approached the MRO for mutation of their names and for PPBs under A.P.Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity). They were granted to them in 2004. Thereafter, they dug fish tanks and converted the lands into aquaculture ponds. The third respondent issued notice on 06.11.2004 directing the petitioner to be present in his office on 16.11.2004 for enquiring into details of the purchases and issue of PPBs. The petitioners allegedly appeared and produced all the documents but the third respondent did not look into the documents. They, therefore, filed writ petitions being W.P.Nos.21371 of 2004 etc. This Court disposed of them on 26.11.2004 directing the MRO to consider the representations made by the petitioners along with the material produced by them. Thereafter, the RDO passed orders as noticed hereinabove. The petitioners contend that the impugned order is passed in violation of principles of natural justice without considering the representations made by them and without taking into consideration the documents submitted by them.

Along with the application for vacating the interim order, the RDO has filed a detailed counter affidavit. The gist of the averments is as follows. The land admeasuring Acs.94.50 cents in survey Nos. 815, 819, 824, 825 to 830, 833, 834, 855 and 856 to 861 etc., of Vivaka

village is Government land classified as 'assessed waste dry' (AWD) in the revenue records. An extent of Acs.36.55 cents in some of the survey numbers was assigned to eight political sufferers and the rest of the land admeasuring Acs.57.95 cents was never assigned to any person. Subsequently, the assignment made in favour of eight political sufferers was cancelled as it was found that they obtained assignment illegally. The twenty persons from whom the petitioners purchased the lands are either not assignees or those persons, who claimed assignment under illegal orders. Therefore, the MRO issued notice on 06.11.2004. The petitioners did not appear for enquiry but filed writ petitions being W.P.Nos.21371 of 2004 etc. The writ petitions were disposed of on 26.11.2004. Even before the said order was communicated, the MRO forwarded report to the RDO to take further action in the matter as the petitioners failed to respond to the notices. The RDO, therefore, considered the record and passed the impugned order on 01.12.2004. The petitioners have an effective alternative remedy under Section 9 of the Act, and therefore, the writ petition is not maintainable.

Learned counsel for the petitioners vehemently contends that in spite of this Court directing the respondents 1 and 2 to consider the representation and documents filed by the petitioners, the RDO passed orders without doing so and, therefore, the impugned order is illegal and void. He, secondly, submits that the petitioners purchased the subject land under valid registered sale deeds and, therefore, PPBs issued to have based on such sale deeds cannot be cancelled by the RDO, who has no jurisdiction to exercise such power.

Learned Government Pleader for Revenue (Assignment) submits that the sale deeds obtained by the petitioners in June/ July 2004 are vitiated by fraud and, therefore, they cannot be permitted to retain the benefit obtained by fraud. Secondly, he would urge that in spite of giving notice, the petitioners did not submit explanation and, therefore, the RDO passed orders based on the record. He also submits that the writ petitions filed by the petitioners being W.P.Nos.21371, 21354, 21355, 21728 and 21679 of 2004, were disposed of at the admission stage on 26.11.2004. Even before these orders were communicated to respondents 1 and 2, the first respondent passed the impugned order. As the petitioners failed to bring to the notice of RDO about the orders of this Court and they failed to submit explanations to show cause notices/urgent notices, the impugned order cannot be faulted.

The petitioners have not filed reply affidavit denying the counter averments. However, they filed W.P.M.P.No.1937 of 2005 seeking permission of the Court to raise additional grounds, contending that the

second respondent has no jurisdiction to cancel the pattas/PPBs. No material is placed before this Court in support of the contention that the land was allotted/assigned to political sufferers without any condition of inalienability and for that reason the sale deeds in favour of the petitioners are valid. It is the case of the respondents 1 to 3 that the lands assigned to M/s.Chintalapudi Lakshmi Kanthamma, Kapa Venkaiah, Smt.Mikkilineni Varalakshmi, Smt.Kaneti Venkamma, Yadlapalli Lakshmaiah, Vaddam Suraiah, Kamma Jangaiah and Kaladindi Appala Raju, as political sufferers were subsequently cancelled, as it was found that the assignment made was illegal. It is also the case of the respondents that the other persons, who sold the property to the petitioners was never assigned the land. Therefore, the petitioners *prima facie* cannot claim any valid title, when their vendors themselves had no title. Insofar as the violation of natural justice is concerned, when the order was passed on 26.11.2004 by this Court and the said order was not communicated to the RDO, and when the petitioners did not submit any explanation for the show cause notices/urgent notices issued by the MRO on 06.11.2004, this Court cannot find fault in the order passed by the RDO based on the record. Rule 13(2) of A.P. Rights in Land and Pattadar Pass Books Rules, 1989, empowers the RDO and other specified authorities to cancel PPBs by duly correcting the entries in the record of rights. The petitioners have effective remedy of approaching the Joint Collector by filing revision petition under Section 9 of the Act, if so advised the petitioners may do so. As and when the petitioners filed revision petitions, the Joint Collector may dispose of such revision petitions based on the record and after hearing the petitioners without being influenced by any of the observations made herein above.

The writ petition, with the above observations, is accordingly dismissed.

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(V.V.S.RAO,J)

17.10.2006.
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